

## **TEXT OF ADOPTED REGULATIONS**

In the following text, underline indicates new text, ~~strikethrough~~ indicates deleted text.

**Title 15, Division 3, Chapter 1.**

### **Subchapter 4. General Institution Regulations**

#### **Article 8. Medical and Dental Services**

##### **Section 3350.1. Medical and Dental Treatment/Service Exclusions.**

(a) Treatment refers to attempted curative treatment and does not preclude palliative therapies to alleviate serious debilitating conditions such as pain management and nutritional support. Treatment shall not be provided for the following conditions:

(1) Conditions that improve on their own without treatment. Examples include, but are not limited to:

(A) Common cold.

(B) Mononucleosis.

(C) Viral hepatitis A.

(D) Viral pharyngitis.

(E) Mild sprains.

(F) Benign oral lesions.

(G) Traumatic oral ulcers.

(H) Recurrent aphthous ulcer.

(2) Conditions that are not readily amenable to treatment, including, but not limited to, those which may be made worse by treatment with conventional medication or surgery, and those that are so advanced in the disease process that the outcome would not change with existing conventional or heroic treatment regimens. Examples include, but are not limited to:

(A) Multiple organ transplants.

(B) Temporomandibular joint dysfunction.

(C) Grossly metastatic cancer.

(D) Shrinkage and atrophy of the bony ridges of the jaws.

(E) Benign root fragments whose removal would cause greater damage or trauma than if retained for observation.

(3) Conditions that are cosmetic. Examples include, but are not limited to:

(A) Removal of tattoos.

(B) Removal of nontoxic goiter.

(C) Breast reduction or enlargement.

(D) Penile implants.

(E) Removal of existing body piercing metal or plastic rings or similar devices within the oral cavity, except for security reasons.

(F) Restoration or replacement of teeth for esthetic reasons.

(G) Restoration of any natural or artificial teeth with unauthorized biomaterials.

(b) Surgery not medically necessary shall not be provided. Examples include, but are not limited to:

(1) Castration.

(2) Vaginoplasty (except for Cystocele or Rectocele).

(3) Vasectomy.

(4) Tubal ligation.

(5) Extractions of asymptomatic teeth or root fragments unless required for a dental prosthesis, or for the general health of the patient's mouth.

(6) Removal of a benign bony enlargement (torus) unless required for a dental prosthesis.

(7) Surgical extraction of asymptomatic un-erupted teeth.

(c) Services that have no established outcome on morbidity or improved mortality for acute health conditions shall not be provided. Examples include, but are not limited to:

(1) Acupuncture.

(2) Orthoptics.

(3) Pleoptics.

(4) Root canals on posterior teeth (bicuspid and molars).

(5) Dental Implants.

(6) Fixed prosthodontics (dental bridges).

(7) Laboratory processed crowns.

(8) Orthodontics.

(d) Treatment for those conditions that are excluded within these regulations may be provided in cases where all of the following criteria are met:

(1) The inmate's attending physician or dentist prescribes the treatment as clinically necessary.

(2) The service is approved by the ~~medical authorization review committee, or the Dental Authorization Review committee,~~ and the Dental Program Health Care Review Committee for dental treatment, or and the health care review committee Institutional Utilization Management committee and the Headquarters Utilization Management committee for medical treatment. The decision of the review committee, as applicable, to approve an otherwise excluded service shall be based on:

(A) Available health and dental care outcome data supporting the effectiveness of the services as medical or dental treatment.

(B) Other factors, such as:

1. Coexisting medical or dental problems.
2. Acuity.
3. Length of the inmate's sentence.
4. Availability of the service.
5. Cost.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).

**Section 3352. Medical Authorization Review Committee Institutional Utilization Management Committee.**

(a) ~~An medical authorization review (MAR) committee~~ Institutional Utilization Management (IUM) committee shall be established within each ~~correctional treatment center's (CTC) service area facility.~~ The committee shall meet as often as necessary to approve or disapprove requests for medical services otherwise excluded by these regulations, review and manage referrals for specialty medical services, review and manage institutional and community hospital bed usage, review other available utilization management data, and report requested utilization management data to the Headquarters Utilization Management (HUM) committee. Committee decisions concerning the approval or disapproval of requests for medical services shall be rendered within 21 calendar days of the request of the treating physician.

(b) The committee shall:

~~(1.) Be composed~~ Consist of, but not be limited to, representatives from the health care staff of each institution ~~within the CTC's service area.~~

~~(2.)~~ Consist of not less than three ~~service area~~ staff physicians.

(c) Committee decisions concerning the approval or disapproval of requests for medical services otherwise excluded by these regulations shall be based on criteria established in Section 3350.1(d). Only licensed physicians may vote on the approval or disapproval of a request for medical services. Committee decisions shall be documented in the inmate's health record. Those cases that receive committee approval shall be forwarded along with all supporting documentation to the ~~health care review (HCR)~~ HUM committee. The treating physician shall notify the inmate of the committee's decision.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5023.2 and 5054, Penal Code, *Perez, et al. v. Cate, et al.*, USDC no. 3:05-cv-05241-JSW (No. Cal.).

### **Section 3352.1. Health Care Review Headquarters Utilization Management Committee.**

(a) The ~~health care review (HCR)~~ Headquarters Utilization Management (HUM) committee shall meet as often as necessary to review cases approved by the ~~MAR Institutional Utilization Management IUM~~ committee for otherwise excluded medical services, develop objective, evidence-based medical necessity criteria and utilization guidelines, provide oversight of referrals to specialty medical services, provide oversight of community hospital bed usage, develop case management processes for high medical risk and high medical cost patients, and develop policies and procedures to ensure statewide employment of a utilization management program, and Dental Authorization Review (DAR) committee for dental services otherwise excluded. HCRHUM committee decisions concerning the approval or disapproval of requests for medical services otherwise excluded by these regulations shall be based on by these criteria established in Section 3350.1(d).

(b) The HCRHUM committee shall consist of, but not be limited to, the following:

(1) ~~Assistant Deputy Director, Healthcare Operations Clinical Policy and Programs Branch, Division of Correctional Health Care Services or their designee.~~

(2) ~~Statewide Medical Director Executive, DCHCS, or their designee.~~

(3) ~~Deputy Director Medical Executive, Health Care Administrative Operations Branch Utilization Management, DCHCS~~

(4) ~~Statewide Dental Director, DCHCS. Two selected specialist physicians. Physician representatives.~~

(5) ~~Selected Dental designees. Nonvoting utilization management nurse, as necessary. Nursing representatives.~~

(6) ~~Two selected specialist physicians. Mental health representatives.~~

(7) ~~Nonvoting utilization management nurse, as necessary.~~

(c) Only licensed physicians may vote on ~~Decisions to approve or deny a request for an excluded service requires at least one of either the Assistant Deputy Director, Clinical Policy and Programs Branch, DCHCS, or the Deputy Director, Health Care Administrative Operations Branch, DCHCS, or their designee be in attendance at the applicable review committee.~~ Committee decisions concerning the approval or disapproval of request for medical services shall be rendered within 60 calendar days of the initial request from the treating physician. All decisions shall be documented in the inmate's

health record. The treating physician shall notify the inmate of the committee's decision regarding medical services.

~~(d) Decisions regarding medical services which have been referred by the MAR committee shall be voted on by the Assistant Deputy Director, Clinical Policy and Programs Branch, the Statewide Medical Director, and the medical staff of the HCR. Decisions to approve or deny an excluded service shall be based upon a quorum of the majority of the above members. The treating physician shall notify the inmate of the committee's decision regarding medical services.~~

~~(e) Decisions regarding dental services which have been referred by the DAR committee shall be voted on by the Assistant Deputy Director, Clinical Policy and Programs Branch, the Statewide Dental Director, and the dental staff of the HCR. Decisions to approve or deny an excluded service shall be based upon a quorum of the majority of the above members. The treating dentist shall notify the inmate of the committee's decision regarding dental services.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5023.2 and 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).

### **Section 3352.2. Dental Authorization Review Committee.**

(a) Each departmental institution shall establish a Dental Authorization Review (DAR) committee. The DAR shall be established for the purpose of:

(1) Approving or disapproving requests for:

(A) e~~O~~therwise excluded dental services.

(B) Deviations from treatment policy.

(C) Medically necessary treatment that requires a contract specialist to provide treatment at the local institution.

(D) Medically necessary treatments or consultations that cannot be accomplished at the local institution.

(2) Reviewing treatment recommendations for special dental care needs, ~~and,~~

~~(3) Evaluating the cost efficiency and effectiveness of the dental services provided at the institution.~~

~~(b) Membership of the DAR shall be composed of representatives from each institution's dental care staff. DAR committee membership shall consist of:~~

~~(1) t~~The Supervising Dentist, or designee,. A staff dentist as Chairperson.

~~(2) a Staff Dentist as Chairperson, and a A S~~staff D~~dentist as Vice-Chairperson.~~

(3) Any institutional dentist(s) providing dental services to inmates.

(4) Representatives from other institution services or divisions shall be invited, when appropriate, to committee meetings.

(c) DAR committee decisions shall be based upon ~~the following~~ criteria established in section 3350.1(d). Committee decisions shall be documented in the inmate's health record. Cases that receive committee approval shall be forwarded, along with all supporting documentation, to the Dental Program Health Care Review Committee (DPHCRC). The treating dentist shall notify the inmate of the committee's decision.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).

**This text adopts new Section 3352.3 and subsections (a) through (e).**

### **Section 3352.3. Dental Program Health Care Review Committee.**

(a) The Dental Program Health Care Review Committee (DPHCRC) shall meet as often as necessary to review cases approved by the Dental Authorization Review (DAR) committee for otherwise excluded dental services. DPHCRC decisions shall be completed within 15 business days of receipt and shall be based on criteria established in Section 3350.1(d).

(b) The DPHCRC shall consist of, but not be limited to, the following:

(1) Chief Dentist, DAR, Inmate Dental Services Program (IDSP), DCHCS.

(2) Chief Dentist, Policy and Risk Management, IDSP, DCHCS.

(3) Chief Dentist, Training, IDSP, DCHCS

(4) A minimum of two (2) dentists, IDSP, DCHCS.

(c) Decisions to approve or deny requests for dental services which have been referred by the DAR committee shall require the attendance of a minimum of three (3) dentists, IDSP, DCHCS, at the applicable review committee, at least one of which must be a Chief Dentist or their designee, and shall be based upon the decision adopted by a majority of the DPHCRC members present.

(d) The treating dentist shall notify the inmate of the committee's decision regarding dental services. All decisions shall be documented in the inmate's health record.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).

### **Section 3354. Health Care Responsibilities and Limitations.**

**Sections 3354(a) through 3354(e) are unchanged.**

(f) Dental Priority Classification (DPC) codes Sick Call: Routine dental treatment shall not be provided during sick call. Inmates requesting dental treatment shall be evaluated and scheduled into one of the following categories:

(1) Emergency care category: A dental emergency, as determined by health care staff, includes any medical or dental condition for which evaluation and treatment are necessary to prevent death, severe or permanent disability, or to alleviate disabling pain. Immediate treatment shall be provided and will be available to such inmates 24 hours a day, 7 days a week.

(2) Urgent care categories: Treatment of a dental condition of sudden onset or severe pain which prevents the inmate from carrying out essential activities of daily living: or sub-acute or unusual hard or soft tissue condition or pathology requiring early intervention. This category includes:

(A) Priority DPC 1A: ~~Inmates requiring treatment of an acute oral or maxillo-facial condition, which is likely to remain acute, worsen, or become life threatening without immediate intervention. Such inmates shall receive treatment within 24 hours~~ one calendar day of diagnosis and assignment to Dental Priority 1A.

(B) Priority DPC 1B: ~~Inmates requiring treatment for a sub-acute hard or soft tissue pathology. Such inmates shall receive treatment within 30~~ calendar days of diagnosis and assignment to Dental Priority 1B.

(C) Priority DPC 1C: ~~Inmates requiring early treatment for any unusual hard or soft tissue pathology. Such inmates shall receive treatment within 60~~ calendar days of diagnosis and assignment to Dental Priority 1C.

(3) DPC 2 Interceptive care category: Treatment of advanced caries, moderate or advanced periodontal pathology, or the provision of dentures. This category requires that inmates shall have over 6 months remaining to serve on their sentence within the department at the time DPC 2 care is initiated, and be provides eligibility for Priority DPC 2 care regardless of oral health self-care hygiene status. Such inmates shall receive treatment within 120 calendar days of diagnosis and assignment to Priority 2 care.

(A) Priority 2A: ~~Inmates requiring advanced caries or advanced periodontal pathology requiring the use of intermediate therapeutic or palliative agents or restorative materials, mechanical debridement, or surgical intervention.~~

(B) Priority 2B: ~~Edentulous or essential edentulous, or with no posterior teeth in occlusion requiring a complete denture, or one or more missing anterior teeth resulting in the loss of anterior dental arch integrity, requiring a transitional anterior partial denture.~~

(C) Priority 2C: ~~Moderate or advanced periodontitis requiring non-surgical deep scaling and root planing procedures.~~

(D) Priority 2D: ~~Chronically symptomatic impacted tooth requiring removal or specialty referral. Surgical procedures for the elimination of pathology, or restoration of essential physiologic relationship.~~

(4) DPC 3 Routine Rehabilitative care category: Treatment of caries not likely to become advanced within one year, mild periodontal pathology, or the provision of removable partial dentures. This category requires that inmates shall have over 12 months remaining to serve on their sentence within the department at the time DPC 3 care is initiated, and shall meet oral health self-care hygiene requirements. Such inmates shall receive treatment within one year of diagnosis and assignment to Priority 3 care.

(A) Priority 3A: ~~Inmates requiring a maxillary or mandibular partial denture or both due to insufficient number of posterior teeth to masticate a regular diet.~~

~~(B) Priority 3B: Carious or fractured dentition requiring restoration with definitive restorative materials or transitional crowns.~~

~~(C) Priority 3C: Gingivitis or mild periodontitis requiring routine prophylaxis.~~

~~(D) Priority 3D: Definitive root canal treatment for non-vital, single-rooted teeth, which are restorable with available restorative materials.~~

(5) DPC 4 No dental care needed: Inmates not appropriate for inclusion in DPC 1, 2, 3 or 5.

(6) DPC 5 Special needs care: Inmates with special needs. These include inmates requiring dental care that is a deviation from treatment policy as well as treatments that may require a contract specialist or that cannot be accomplished at the institution.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).

## **Section 3354.2. Inmate Copayment for Health Care Services.**

**Sections 3354.2(a) through 3354.2(b) are unchanged.**

(c) Inmates shall be charged and inmates shall pay a fee of five dollars (\$5.00) for each inmate-initiated health care visit. The fee for this visit shall:

(1) Cover the evaluation, assessment, and medically necessary treatment, including follow-up services that relate to the initial condition and which are determined by health care staff to be necessary.

(2) Be charged for subsequent dental services provided in accordance with a prescribed dental treatment plan. Such services shall not be considered as a follow-up service as described in Section 3354.2(c)(1) and shall be subject to a copayment unless the visit was initiated by the dental care provider.

**Existing subsection 3354.2(c)(2) is renumbered to 3354.2(c)(3).**

~~(2)~~ (3) Be charged to the trust account of the inmate. When the inmate is without sufficient funds at the time of the charge, and remains without sufficient funds for 30 days after this time, the inmate shall not be charged for any remaining balance of the fee.

**Existing subsection 3354.2(c)(3) is renumbered to 3354.2(c)(4).**

~~(3)~~ (4) Be waived for the following:

**Subsections 3354.2(c)(4)(A) through 3354.2(c)(4)(G) are unchanged.**

Note: Authority cited: Sections 5007.5 and 5058, Penal Code. Reference: Section 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).

## **Section 3355.1. Dental ExaminationsCare.**

(a) Reception Centers. Newly arriving inmates at a reception center, including new commitments and



parole violators, shall receive an initial health screening by a licensed health care provider to identify urgent/emergent dental needs. Inmates shall, during screening at a reception center, be provided only limited dental services necessary to meet basic needs. Such services shall include but are not limited to treatment of injuries, acute infection, severe pain, or spontaneous bleeding, and repairs to dental prosthetic appliances. Within sixty (60) calendar days of an inmate's arrival at a reception center, a dentist shall perform a dental screening. Dental treatment provided to reception center inmates shall be limited to the treatment of Emergency and Urgent Care dental conditions, as defined in Section 3354(f)(1) and 3354(f)(2). Inmates who remain in a reception center for ninety (90) days or longer may submit a CDC Form 7362 (Rev. 03/04) Health Care Services Request Form, which is incorporated by reference, to request DPC 2 care (excluding prosthetics). Upon receipt of a CDC Form 7362, the dentist shall exercise professional judgment in considering treatment for a DPC 2 condition for the inmate.

(b) Assigned Facility. Each newly committed inmate shall within 90 calendar days following transfer from a reception center to a program facility receive a complete examination by a dentist who shall develop an individual treatment plan for the inmate. Upon arrival at a program facility all inmates shall be notified that they are eligible to receive an initial comprehensive dental examination performed by a dentist who shall formulate and document a dental treatment plan. The inmates shall be notified that no copayment is required for this service.

(1) When a treatment plan is proposed, the inmate shall be provided an explanation of its advantages and disadvantages.

(2) Each inmate's dental health history shall be documented at the time of initial examination and signed by the inmate and witnessed by ~~a dental staff member~~ the dentist. Such history shall be available and ~~updated~~ reviewed at each dental visit.

(3) An inmate unwilling to practice personal oral hygiene shall receive only that care necessary to relieve pain or treat infection. Routine treatment of nonacute oral conditions resulting from the inmate's neglect shall not be undertaken. Inmates with a plaque index score above 20% or who refuse oral hygiene instruction shall receive only Emergency Care, Urgent Care, Interceptive Care, and/or Special Needs Care, as these terms are described in Subsections 3354(f)(1), 3354(f)(2), 3354(f)(3), and 3354(f)(6), respectively.

(c) Within the second trimester of gestation, and regardless of their plaque index score, Ppregnant inmates shall receive, within the second trimester of gestation, a comprehensive dental examination, and cleaning, and a periodontal evaluation examination, oral hygiene instruction, and the necessary periodontal treatment in order to . Each pregnant inmate shall receive the necessary dental care that will maintain periodontal health during the gestation period.

(d) Reexamination. After the initial comprehensive dental examination, all program facility inmates shall be notified that they are eligible to receive a periodic comprehensive dental examination by a dentist with no copayment required as follows: Each inmate under 50 years of age shall be examined at least once every two years. All other inmates shall be examined annually.

(1) Every two (2) years (biennially), until the age of fifty (50).

(2) Annually after the age of 50 and regardless of age if the inmate is diagnosed with diabetes, HIV, seizure disorder or pregnancy.

(e) Restraints. If an inmate requiring dental treatment also requires use of restraint gear, such restraints shall be selected to enable sitting in a dental chair and shall remain in place during the treatment. Exceptions require concurrence of the dentist, the escorting officer, and a lieutenant. For pregnant inmates, the rules provided in subsections 3268.2(b) and (d) concerning the use of restraints shall be followed.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 3424 and 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).

### **Section 3358. Artificial Appliances.**

(a) Appliance Categories. Appliances include but are not limited to eyeglasses, artificial eyes, dental prosthesis, artificial limbs, orthopedic braces and shoes, and hearing aids. An inmate's need for such appliance shall be based on medical necessity as described in section 3350(b)(1).

(b) Possession of Appliance. No inmate shall be deprived of a prescribed orthopedic or prosthetic appliance in the inmate's possession upon arrival into the department's custody or properly obtained while in the department's custody unless a department physician or dentist determines the appliance is no longer needed and the inmate's personal physician, if any, concurs in that opinion. If an inmate's dental prosthetic appliance is confiscated for safety and security reasons, a dentist shall be notified by the next business day to determine whether the inmate will require any accommodations due to the loss of the prosthetic appliance.

(c) Purchase of Appliance. Prescribed appliances shall be provided at state expense if an inmate is indigent, otherwise the inmate shall purchase prescribed appliances through the department or an approved vendor of the inmate's choice as directed by the chief medical officer or supervising dentist. Departmental dentists shall not order prescribed dental appliances made from precious metal, and departmental dentists or dental laboratories shall not perform repairs to existing dental prosthesis made from precious metal. If an inmate's existing dental appliance made from precious metal needs repair, the dentist shall offer the inmate the option of having a new prosthesis made. When a prescribed appliance is to be provided the inmate shall sign a CDC Form 193, Trust Account Withdrawal Order (Rev. 1/88), to pay for the materials.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code, Perez, et al. v. Cate, et al., USDC no. 3:05-cv-05241-JSW (No. Cal.).